PATENT
Attorney's Docket No. DGX01002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	)	
	)	**Mail Stop APPEAL BRIEF - PATENTS**
Richard S. BICE et al.	)	
	)	
Application No.: 09/879,816	)	Group Art Unit: 2143
	)	
Filed: June 12, 2001	)	Examiner: J. Avellino
	)	
For: AUTOMATED MESSAGE HANDLING SYSTEM AND PROCESS	)	

REPLY BRIEF UNDER 37 CFR § 41.41

U.S. Patent and Trademark Office
Customer Window, Mail Stop Appeal Brief-Patents
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This reply brief is submitted in response to the Examiner's Answer, mailed June 5, 2006.

In the "Response to Arguments" section of the Examiner's Answer (pages 8-13), the Examiner addresses a few of the arguments presented in Appellants' Appeal Brief. Appellants respectfully request that the Examiner's failure to address arguments presented by Appellants be taken as an admission that the Examiner found those arguments persuasive.

In response to the "Response to Arguments" section of the Examiner's Answer, Appellants submit the following remarks.

1. Claim 34.

In section A.1 of the "Response to Arguments" section, the Examiner's allegations mirror those arguments presented in the Office Action, dated December 14, 2005. Appellants' arguments regarding these allegations are presented in Appellants' Appeal Brief.

In section A.2 of the "Response to Arguments" section, the Examiner alleges:

> Attention is drawn to Brown, col. 3, lines 50-55 where the system periodically scans a product database and determines when new products have been added. Events which are discovered by such a comparison between a previous state of an object...with the current state". Another way of putting this is the rule
>
> If (current state ≠ previous state) then
> Generate implicit event
>
> This clearly shows that the so called "batch jobs" of Brown are, in fact, service-based rules since they are based on the level of service subscribed to by the user (i.e. either the user is subscribed to the service to utilize these rules, or they are not). By this rationale, the rejection is maintained.

Appellants respectfully disagree with the Examiner's interpretation of Brown et al.

> At col. 3, lines 50-55, Brown et al. discloses:
>
> explicit events on this occurrence, a batch job 34 can periodically scan a product database and determine when new products have been added. Events which are discovered by such a comparison between a previous state of an object, in a persistent memory, with the current state are referred to herein as "implicit events."

This section of Brown et al. discloses that a batch job 34 can periodically scan a product database to determine when new products have been added. This section of Brown et al. further discloses that an implicit event may be generated based on a comparison between a previous state of an

object and a current state of the object. Contrary to the Examiner's allegations, this section of Brown et al. does not disclose or suggest at least one service-based message handling rule, as recited in claim 34.

Brown et al. discloses, as set forth above, that an application called "batch jobs" can compare a previous state of an object in a product database to a current state of the object and generate implicit events based on the comparison. The "batch jobs" application, represented by element 12 in Fig. 1, sends the implicit events to an event router 16, which may route the events to event handlers 20 and/or an alert manager 24 (see, for example, Fig. 1). Brown et al. further discloses that alert manager 24 receives events and determines whether to route the events to users based on a set of rules (col. 3, lines 18-25). Brown et al. specifically discloses that the rules that alert manager 24 uses to make event routing decisions are user-defined (col. 5, lines 18-26).

Contrary to the Examiner's allegations, Brown et al. in no way discloses or suggests that the "batch jobs" application is or includes at least one service-based message handling rule, as required by claim 34. Moreover, the Examiner does not explain why Brown et al.'s "batch jobs" application would reasonably be construed as at least one service-based message handling rule.

Appellants note that claim 34 also recites a message handler configured to determine, based on a content of a received message, whether to apply the at least one service-based message handling rule and identify at least one second party when the at least one service-based message handling rule applies to the received message. Assuming, for the sake of argument, that

Brown et al.'s "batch jobs" application can reasonably be construed as at least one service-based message handling rule (a point that Appellants do not concede), Appellants submit that Brown et al. does not disclose or suggest a message handler configured to determine, based on a content of a received message, whether to apply the "batch jobs" application and identify at least one second party when the "batch jobs" application applies to the received message, as would be required by the Examiner's interpretation of Brown et al. with respect to claim 34. The disclosure of Brown et al. does not support the Examiner's allegations.

In section A.1 of the "Response to Arguments" section, the Examiner further alleges:

> Finally, Appellant argues that the rules found in Brown's alert manager are user-defined rules. Even assuming, arguendo, that this is correct, these messages are common to all the users, therefore meeting the definition of a "common rule" as supplied by Appellant.

Appellants respectfully submit that the Examiner's allegation lacks merit. Brown et al. specifically discloses that alert manager 24 makes event routing decisions based on user-defined rules (see, for example, col. 5, lines 18-26). Contrary to the Examiner's allegation, Brown et al. does not disclose or suggest that these user-defined rules are common to all users. The Examiner has not pointed to any section of Brown et al. that supports this allegation.

2. Claim 8.

In section A.2 of the "Response to Arguments" section, the Examiner alleges:

> as shown at col. 5, line 55 to col. 6, line 4, numerous recipients (i.e. email, notification windows on a desktop, call to a pager, etc.) are defined in the rule.

Appellants respectfully disagree with the Examiner's allegation.

Brown et al. appears to disclose that a user can define a rule that allows alert manager 24 to determine which events are to be sent to the user himself/herself (see, for example, col. 5, line 61, to col. 6, line 3). Brown et al. also discloses that a user can determine how the messages are to be sent (e.g., e-mail) (see, for example, col. 5, line 61, to col. 6, line 3). Brown et al. does not disclose or suggest that alert manager 24, which the Examiner alleges corresponds to the recited portal interface (see pg. 11 of the Examiner's Answer), allows the user to express without prompting at least one desired recipient, as required by claim 8.

3. Claim 2.

In section B.1 of the "Response to Arguments" section, the Examiner presents a new motivation to combine Teegan et al. with Brown et al. The Examiner alleges:

> one of ordinary skill in the art would want to modify the system of Teegan with Brown in order to generate events which signal a fault is occurring with the system.

Appellants submit that the Examiner's motivation is merely a conclusory statement regarding an alleged benefit of the combination. Such conclusory motivation statements have consistently been held by courts to be insufficient for establishing a *prima facie* case of obviousness. In this respect, Appellants rely upon In re Deuel, 51 F.3d 1552, 34 USPQ2d 1210 (Fed. Cir. 1995), where it was held that generalizations do not establish the realistic motivation to modify a

specific reference in a specific manner to arrive at a specifically claimed invention. Appellants submit that the Examiner's purported motivation to combine the cited references is merely conclusory and based on impermissible hindsight.

4. Claim 9.

In section C.1 of the "Response to Arguments" section, the Examiner alleges:

> Escolar discloses that the list 48 can be stored as data 34 in memory 30 (col. 3, lines 32-35). Furthermore the claim recites that the list is presented as potential recipients of an automatically forwarded message. This list is provided as a list of contact numbers to call in response to an alarm (col. 3, lines 10-15). The customer in this sense is the actual system, the system then takes this list of potential contacts, and, based on various factors, determines who to contact (col. 3, line 60 to col. 4, line 5). This clearly shows that the list 48 corresponds to the contacts list tool as claimed.

Appellants respectfully disagree with the Examiner's allegations.

Escolar discloses that an alarm alerting device (AAD) module 26 waits for an alarm from monitoring system 10 (col. 3, lines 1-4). Once an alarm signal is detected, AAD module 26 checks to see if all of the alarms have been cleared (col. 3, lines 4-6). If all of the alarms have not been cleared, AAD module 26 refers to list 48 to find an appropriate contact number (col. 3, lines 8-10). AAD module 26 may then call a person on list 48 (col. 3, lines 59-67). Contrary to the Examiner's allegation, Escolar does not disclose or suggest that list 48 is presented to a customer as potential recipients of an automatically forwarded message, as recited in claim 9. Moreover, Appellants submit that the Examiner's allegation that AAD module 26 (i.e., "the

system") corresponds to a customer is unreasonable. The Examiner has not pointed to any section of Escolar that supports this allegation.

5. Claim 17.

In section D.1 of the "Response to Arguments" section, the Examiner alleges:

> Attention is directed to Brown, col. 5, lines 55-60 where it is stated that "a call can be made to a pager...". This clearly shows that a transmission is directed to a pager.

Appellants submit that this allegation does not address the specifically recited features of claim 17.

Claim 17 specifically recites displaying a list of available delivery methods for automatic forwarding of messages to a customer, and determining from the customer a desired delivery method for transmission of a message to a desired recipient, wherein at least one delivery method comprises transmission to a pager. The mere fact that Brown et al. may disclose placing a call to a pager in no way addresses the specifically recited features of claim 17.

In section D.2 of the "Response to Arguments" section, the Examiner relies on col. 11, line 59, to col. 12, line 15, of Wagner (U.S. Patent No. 6,092,102) as allegedly showing that "displaying a list of available delivery methods for automatic forwarding of messages to a customer, and determining from the customer a desired delivery method for transmission of a message to a desired recipient, wherein at least one delivery method comprises transmission to a

pager" is well known in the art. Appellants respectfully disagree with the Examiner's interpretation of Wagner.

At col. col. 11, line 59, to col. 12, line 15, Wagner discloses a table (Table III) that may be associated with a user. This section of Wagner discloses that Table III includes a type of information field, an e-mail field, a pager field, a 2-way fail-safe pager field, a to do list field, and a do not deliver field. Wagner does not disclose or suggest that Table III is displayed to a customer. Thus, this section of Wagner cannot disclose or suggest displaying a list of available delivery methods for automatic forwarding of messages to a customer, and determining from the customer a desired delivery method for transmission of a message to a desired recipient, wherein at least one delivery method comprises transmission to a pager, as required by claim 17.

Appellants respectfully submit that the features of "displaying a list of available delivery methods for automatic forwarding of messages to a customer, and determining from the customer a desired delivery method for transmission of a message to a desired recipient, wherein at least one delivery method comprises transmission to a pager" are not well-known in the art, and represents Appellants' solution to providing messages to a recipient. Appellants submit that the Examiner's conclusory allegation of obviousness with respect to the above-noted features, represents impermissible hindsight derived from Appellants' own disclosure, and not from the teachings of the prior art.

CONCLUSION

In view of the foregoing arguments, Appellant respectfully solicits the Honorable Board to reverse the outstanding rejections of claims 2-9, 14-20, 24-31, and 34-36.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

By: /John E. Harrity/
John E Harrity
Reg. No. 43,367

Date: July 31, 2006

Harrity Snyder, L.L.P.
11350 Random Hills Road
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 25537